

## Duties and Authority of City Officers 3-01

### CHAPTER 3 DUTIES AND AUTHORITY OF CITY OFFICERS

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2. In case of a vacancy in the office of mayor, the president of the common council and by a direct line of succession and in the order herein set forth the persons elected or appointed to the following offices or positions shall have and exercise all the powers and discharge all the duties of the mayor, until such time as his successor shall be elected as hereinafter provided. The direct line of succession shall be as follows:

- a. President of the common council.
- b. Chairman of the committee on finance-personnel.
- c. The chairman of the remaining standing committees of the common council in the order of their seniority, that is, the length of service in the office of alderman; and in the event such time of service be equal, then as to such chairmen, in the alphabetical order of their surnames.
- d. The remaining aldermen in the order of their seniority, that is, the length of service in the office of alderman, and in the event such time of service be equal, then as to such aldermen, in the alphabetical order of their surnames.

3. The president of the common council while filling the vacancy as acting mayor may continue to serve as president of the common council, in addition to exercising the powers and responsibilities of the office of mayor, until such time as a new mayor is elected, but the acting mayor shall not take part in any vote of the common council during that period. The common council president shall serve as acting mayor until a successor shall be elected for the residue of the unexpired term.

4. In the event the mayor is unable to perform the duties of his office by reason of absence or sickness, the president of the common council and the other persons aforementioned in the same line of succession provided for in the event of a vacancy in the office of the mayor shall have the powers and duties of the mayor until such time as the mayor shall resume his duties, provided that if any person lower on the list of the line of succession or order as herein set forth shall be exercising such powers and discharging such duties and a person higher on the list of succession or order shall become available to serve, such powers and duties are forthwith vested in the person higher on the list or order. (*S. 3-02 rc. Ch. Ord. 453, F#77-1311, Jan. 17, 1978. S. 3-02-3 am File #001375, Feb. 6, 2001; eff. April 24, 2001.*)

### 3-03. City Attorney: Duties and Powers.

1. The city attorney shall:
  - a. Conduct all the law business of the corporation and of the departments thereof, and all other law business in which the city shall be interested, when so ordered by the common council.
  - b. When required, furnish written opinions upon subjects submitted by the mayor or the common council, or any of its committees, or any other department of the municipal government.
  - c. Keep a docket of the cases to which the city may be a party in any court of record as directed by the common council, in which shall be briefly entered all steps taken in each cause, and which shall, at all times, be open to the inspection of the mayor, comptroller or any committee of the common council.
  - d. Draft ordinances, bonds, contracts, leases, conveyances and other such instruments of writing as may be required by the business of the city.
  - e. Examine and inspect tax and assessment rolls and all proceedings in reference to the levying and collection of taxes and assessments.
  - f. Perform such other duties as may be prescribed by the charter and ordinances of the city.

2. The city attorney may appoint 4 deputy city attorneys, who shall be authorized to do all acts required by law of the city attorney. Assistant city attorneys appointed by the city attorney pursuant to city service laws and provisions shall be authorized, subject to the control and supervision of the city attorney or his deputies to do all acts required by law of the city attorney; provided, that the city attorney shall be responsible to the city for all the acts of such deputy city attorneys and assistant city attorneys. (*Am. File #891403, Dec. 19, 1989; eff. March 14, 1990.*)

**3-04. City Attorney: Vacancy.** In case of a vacancy in the office of city attorney of the city of Milwaukee, the deputy city attorney having the longest tenure in that position shall have full power and authority, and it is hereby made his duty to exercise the office and perform the duties of city attorney until such vacancy shall be filled in the manner provided by law at the ensuing general municipal election. (*Am. Ch. Ord. 446, June 30, 1977.*)

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**3-05. City Attorney: Assistants.** The common council of cities whether organized under the general law or special charters may employ an attorney to assist the city attorney in, or to take charge of, any matter or litigation in which the city is interested, when in the judgment of the common council it is deemed proper to employ such assistants, and may compensate him for the services so rendered. (*S. 926-160 Stats., 1907.*)

**3-06. Actions Against City Officers or Employees.** 1. The common council of any city, however incorporated, may by ordinance or resolution authorize the city attorney to defend actions brought against any officer or employee of such city or of any board or commission thereof growing out of any acts done in the course of his employment or out of any alleged breach of his duty as such officer or employee, excepting actions brought to determine the right of such officer or employee to hold or retain his office or position and excepting also actions brought by such city against any officer or employee thereof.

2. Nothing in this act contained nor any action taken by any city or by any city attorney pursuant to the provisions of this act shall be construed to impose any liability, either for costs, damages or otherwise, upon such city or city attorney. (*S. 1 and 2, Ch. 79, L. 1925.*)

**3-07 Treasurer: Duties.** The treasurer shall receive all moneys belonging to the city, and shall keep an accurate account of the same in suitable books to be provided for that purpose. He shall also, on the first Monday of each month, make a report to the common council, embracing a statement of the receipts and disbursements in his office since the last preceding monthly report, on account of the general fund and of each fund which he is required to keep distinct and separate from other funds in the city treasury; and also the total receipts and disbursements during the same time; and the condition of each of such funds at the date of the report. Such reports when made shall be published with the proceedings of the common council when the common council shall so direct. (*S. 6, Subch. 3, Ch. 184, L. 1874.*)

**3-08. Treasurer: Deputies.** It shall be lawful for the common council of the city of Milwaukee to provide, either by resolution or by ordinance,

for the appointment by the city treasurer, subject to confirmation by the council, of such number of deputies as the council may at any time determine to be necessary, and each deputy so appointed shall, before entering upon his duties, take the oath required of the city officers and give such official bonds as the common council may require. Each deputy so appointed shall receive such compensation or salary as the common council shall determine. Each such deputy shall have authority to collect and receive any and all taxes and other moneys which the treasurer is authorized to collect and receive, and receipt for any such moneys, signed by any such deputy, shall have the same force and effect for all purposes as if signed by the city treasurer. (*S. 1, Ch. 161, L. 1889.*)

**3-09. Treasurer: Special Deputy.** 1. There is hereby created the position of special deputy city treasurer. Said special deputy city treasurer shall have and possess all the power and authority conferred upon deputy city treasurers by s. 3-08, and in addition thereto, shall have the power to sign checks and orders on city funds.

2. Said special deputy city treasurer shall be appointed by the city treasurer and shall, before entering upon his duties, take the oath required of city officers and give such official bond as the common council may require. (*S. 9, Ch. Ord. 310, Apr. 6, 1965.*)

**3-10. City Treasurer; Deputies: Additional Powers.** The deputy city treasurer, appointed pursuant to the provisions of s. 20, subch. 3, ch. 184, Laws of 1874, may, in addition to his powers and duties therein provided for, sign checks and orders on city funds, regardless of the city treasurer's absence from or presence in the city of Milwaukee. (*S. 1, Ch. Ord. 105, May 22, 1939.*)

**3-11. Funds on Hand in City Treasury.** The city treasurer of any city of the first class in this state, whether organized under the general laws or incorporated by special act of the legislature, may keep on hand in the treasury of any city, in addition to the amounts that may be deposited in bank, to the credit of such city, the sum of \$100,000 and the treasurer and comptroller may, whenever the balance in the treasury does not amount to \$100,000, increase it to that amount by their check upon any bank where the

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funds of such city may be deposited. (S. 1, Ch. 74, L. 1907.)

**3-12. Control of Funds.** Nothing in this act contained shall be so construed as to authorize the treasurer to apply funds so retained by him, or so to be drawn from the bank on his check countersigned by the comptroller, to purposes other than those to which the same funds are appropriated by law. The common council may at any time, when in their opinion the safety or interests of the city require it, direct all sums so deposited to be paid into the treasury of the city, or to such other bank or banks as they may select under the law. (S. 10, Subch. 17, Ch. 184, L. 1874.)

**3-13. Monthly Statement.** On the first Monday in April in each year, the treasurer shall file in the office of the city comptroller a statement showing the monthly receipts and disbursements of the preceding year, on account of the general city funds; such statement to embrace the gross amounts of receipts and disbursements set forth in the monthly reports provided for in s. 3.07. (S. 8, Ch. Ord. 310, Apr. 6, 1965.)

**3-14. Comptroller: Annual Statement.** The city comptroller shall report annually on or about the first day of January, to the common council, a statement in detail of the expenses of the city during the preceding year, and likewise a detailed estimate of the revenue necessary to be raised for the ensuing year; and the fiscal year of the city shall commence on January 1st. (S. 10, Ch. Ord. 310, Apr. 6, 1965.)

**3-15. Deputy Comptroller, Clerk, Treasurer.** The comptroller, clerk and treasurer may, each, appoint a deputy, for whose acts they shall respectively be responsible. Such deputies, after taking the oath of office required to be taken by their principals, may, in case of the sickness or absence of their principals, respectively perform all the duties imposed by law or the ordinances of the city, on said principals respectively; and shall likewise be subject to the same liabilities and penalties. (S. 20, Subch. 3, Ch. 184, L. 1874.)

**3-16. Authority to Sign Checks.** The city treasurer and the city comptroller are hereby authorized to designate some person in their respective departments who shall have authority to sign checks on behalf of the city

treasurer and city comptroller, respectively, when the city treasurer or his deputy, or the city comptroller or his deputy may be absent from his office and is unable, therefore, to sign such checks. The city treasurer and the city comptroller shall make such designation in writing, naming the person to whom such authority is delegated and shall file the original of such designation with the city clerk. The designation, so filed, shall be operative until withdrawn by the city treasurer or the city comptroller as the case may be or a new designation is provided. In the event of such designation, the officer making such designation shall be liable for the acts of such designee unless a surety bond in the amount of not less than \$50,000 is obtained to save the city harmless from any unauthorized acts of such designee. (S. 1, Ch. Ord. 289, Oct. 30, 1962.)

**3-17. Accounting Methods.** It shall be the duty of the comptroller, or, if there is no comptroller, of such other officer as performs the duties incident to the office of comptroller, by whatsoever name he may be designated, to prescribe methods of accounting for all the departments, commissions, and boards of the city, by whatever name known, and to provide as nearly as may be for a uniform system of accounting for such departments. Provided, however, if any dispute shall arise between the comptroller and the head of a department or any of the commissions or boards of as to what system of accounting is best adapted to the needs of such department, commission or board, such dispute shall be submitted to the common council and the decision of the common council shall be final and conclusive. Whenever the common council of any such city shall have approved the system of accounting for the various departments, commissions and board of the city, said system shall not be superseded or materially changed without the approval of the common council. (S. 3, Ch. Ord. 118, Feb. 24, 1942.)

**3-18. Comptroller: Other Duties. 1.** a. Said comptroller, in addition to his other powers and duties, shall have authority to examine and investigate the reports, vouchers and accounts and such other papers and books of any office, board or department of the city as relate to or in any way affect the finances of such city, and shall also have authority to establish methods

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of auditing bills payable by the city, and shall establish a voucher system whereby any warrants, checks or orders drawn and paid by the city shall be accessible for public audit at all times. After the establishment of such method of auditing bills payable and said voucher system, it shall be unnecessary for the comptroller to report to the common council bills presented to him, nor shall it be necessary for the common council to pass upon and allow such bills, nor to publish in its proceedings the bills so paid, but said comptroller shall have power and authority to audit, adjust, and if found to be proper charges against the city, allow all such bills certified by the department incurring the indebtedness, growing out of any contract or agreement made by or on behalf of such city in accordance with appropriations made by the common council. When any such bill or bills shall have been processed by the comptroller in accordance with this provision, if and in the event there is at the time sufficient money in the general fund of the city to the city's credit for such purposes in any bank or banks to meet the amount of such bill or bills, the proper city officers may draw a bank check for such sums. If there is not sufficient money in the general fund or in such banks, an order shall be drawn by the mayor and city clerk and countersigned by the comptroller, specifying the purpose for which it is drawn and to whom payable and reciting that it is payable on or before February 1 of the following year out of any funds in the treasury belonging to the city and not otherwise appropriated, all such orders to be made payable to the order of the person in whose favor they are drawn; and such orders shall be transferable by endorsement and shall be received in payment of any taxes or assessment levied by the authority of the city, except taxes for interest and sinking fund on general obligation city bonds and notes without further action of the common council.

b. The comptroller shall have power to make such further provisions as to report by heads of the department and require such other information from heads of departments as may be reasonably necessary or proper to make the powers hereby conferred effective.

c. The powers herein given are subject to direction by the common council. (S. 2, Ch. Ord. 326, Nov. 29, 1966.)

2. He shall examine all estimates of work to be done by the commissioner of public

works of the city, and countersign all contracts entered into by said commissioner of public works, and all certificates of work given by him; and also all contracts made in behalf of the city; and no contract entered into or certificate issued against property, shall be of any validity unless countersigned by the comptroller, except as otherwise expressly provided in ch. 184, L. 1874. (S. 11, Ch. Ord. 310, Apr. 6, 1965.)

3. The comptroller shall keep a list of all certificates issued against property, and no later than the last regular meeting of the common council in November, shall report to the council a schedule of all the lots or parcels of land, which, under ch. 184, L. 1874, may be subject to any special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on each such lot or parcel of land, with a full statement of the several acts done and performed in reference to such special taxes or assessments, which said schedule shall be verified by the affidavit of the comptroller, and shall be prima facie evidence of the facts therein stated in all cases wherein the validity of such special tax or assessment shall come in question. The common council shall, if from such report they shall deem such special tax legal and just, cause the same to be levied in pursuance of the provisions of ch. 184, L. 1874. (Sub. 3 am. File #891484, Jan. 16, 1990; eff. April 4, 1990.)

4. He shall report monthly to the common council the amount of work done, or for which contracts have been entered into, chargeable to the general city fund, and to any other fund. (S. 13, Ch. Ord. 310, Apr. 6, 1965.)

5. He shall examine the reports, books, papers, vouchers and accounts of the treasurer, the collector of the water rates, and of any other officer authorized to collect or receive, or charged with the duty of collecting or receiving moneys for the city, and shall perform such other duties as are prescribed in ch. 184, L. 1874, and as the common council may from time to time direct. (S. 14, Ch. Ord. 310, Apr. 6, 1965.)

6. The comptroller shall keep a record of all his acts and doings, which record shall be open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party. (S. 16, Ch. Ord. 310, Apr. 6, 1965.)

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**3-19. Claims.** Except as provided in ss. 3-17 and 3-18, all claims and demands filed with the common council against the city, before their allowance by the common council, shall be reviewed for availability of funds by the comptroller, and immediately after the allowance by the common council of any claim or demand, it shall be the duty of the clerk to furnish to the comptroller information of such allowance. The comptroller shall process such claim or demand for payment, if and in the event there is at the time sufficient money in the general fund of the city to the city's credit for such purpose in any bank or banks to meet the amount of such claim or demand, the proper city officers may draw a bank check for such sum. If there is not sufficient money in the general fund or in such banks, an order shall be drawn by the mayor and city clerk and countersigned by the comptroller, specifying the purpose for which it is drawn and to whom payable and reciting that it is payable on or before February 1 of the following year out of any funds in the treasury belonging to the city and not otherwise appropriated, all such orders to be made payable to the order of the person in whose favor they are drawn; and such orders shall be transferable by endorsement and shall be received in payment of any taxes or assessment levied by the authority of the city, except taxes for interest and sinking fund on general obligation city bonds and notes without further action of the common council. (S. 3, Ch. Ord. 326, Nov. 29, 1966.)

**3-20. Oaths and Affidavits.** The comptroller shall be authorized to administer oaths and affirmations in all matters arising under the laws and ordinances of the city; and he may require all parties having claims or accounts against the city to verify the same by affidavit. In all cases of doubt arising under any claim or contract against or with the city, he shall inquire into the same; and for this purpose he may examine parties and others under oath; and if any person shall swear or affirm falsely, touching the expenditure of any of the money of the city or in support of any claim against the said city, such person shall be subject to indictment or information, and on conviction thereof, shall be punished as for willful and corrupt perjury. (S. 15, Ch. Ord. 310, Apr. 6, 1965.)

**3-20.5. Special Deputy Comptroller.** The city comptroller may appoint and designate a competent person within his office, to act in his stead in all matters, a special deputy city comptroller without additional compensation. Such an appointment shall be in writing and copies thereof filed with the city clerk. Such authority may be revoked and amended in the same manner. The special deputy may perform any and all acts required by law of the city comptroller. The city comptroller shall be responsible for all acts of said special deputy and may require that additional bonds be furnished to assure his faithful performance thereof.

(HISTORY: Section 3-20.5 am. Ch. Ord. 523, F#83-304, July 12, 1983.)

**3-21. Payrolls. 1.** In every city of the first class, whether organized under general or special charter, it shall be the duty of the head, or heads, of every department of the city government, and of all boards and commissioners thereof, by whatever name known, to file with the city comptroller, payrolls as a basis for the disbursement of all funds appropriated for salaries and wages of all the officers and employees of said city, in his or their department.

**2.** The comptroller of any such city of the first class, in addition to his other powers or duties, shall have authority and it shall be his duty to prescribe the form of such payrolls and the certificates thereon. He may also prescribe contents of payrolls and may require such information in support thereof as he may deem desirable; provided, however, that the payrolls for each of the departments and of all boards and commissions thereof and the requirements of each of said departments and of all boards and commissions thereof as to supporting information shall be as nearly uniform as may be and the payrolls of each department and of all boards and commissions thereof shall be sworn to by the clerk in the department and of all boards and commissions thereof making up the said payroll, and shall bear the certificate of the head of the department or executive officer of the board or commission stating that he has examined and approves the payroll and that to the best of his knowledge and belief it is correct.

(HISTORY: S. 925-135d, Stats. 1919.

3-21-2 am. Ch. Ord. 207, File #54-2597-a, Dec. 28, 1954.)

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**3-22. Officers: Oath and Bond.** 1. The city of Milwaukee elects to adopt s. 62.09(4)(a), Wis. Stats., with respect to the duration of time specified for taking and filing the official oath after notice of election or appointment.

2. Every person elected or appointed to any office established by the city charter shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed in the constitution of this state, and file the same duly certified by the officer administering the same with the clerk of the city. Before entering upon the duties of his office, the treasurer shall be covered by a bond executed to the city of Milwaukee in such sum and containing such conditions requiring the faithful discharge of the duties of his office as the common council may require. The common council may from time to time require new and additional bonds from the treasurer and may remove him from office for refusing or neglecting to give proper bonds. The common council may also require that other officers and employees be covered by faithful performance or honesty type bonds, either in individual form or under a blanket bond, or both, the cost of which bond may be paid by the city. All aforesaid bonds shall be filed in the office of the city clerk.

*(HISTORY: Section 3-22 am., Ch. Ord. 327, File #66-1827-b, Dec. 13, 1966.*

*3-22 m. to 3-22-2, File #940239, June 28, 1994; eff. Sept. 14, 1994.*

*3-22-1 cr., File #940239, June 28, 1994; eff. Sept. 14, 1994.)*

**3-23. Liability When Sued in Official Capacity.** No officer of any city, no matter how organized, shall be required to file an undertaking, or any other bond required on appeal in any court when such party has been sued in his official capacity, except in actions of quo warranto or any other kind of action involving directly the title to his office, nor shall any city officer be liable for any costs or damages, but costs or damages, if any, shall be awarded against the city.

*(S. 925-269m Stats. 1919.)*

**3-24. Failure to Deliver Records to Successor.** If any person, having been an officer in said city, shall not, within 10 days after notification and request, deliver to his successor in office, all property, books, papers and effect of every

description, in his possession, belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city \$100, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state. (S. 11, Subch. 3, Ch. 184, L. 1874.)

**3-25. City Corporate Seal.** 1. DESIGN. The corporate seal of the city shall be circular and have 5 scenes depicting aspects of the city in the following manner:

a. The largest scene shall have the Lake Michigan lakefront at sunrise and be located in a circle in the middle of the seal. In a border around the circle shall be 7, 5-pointed stars which adjoin the block letters "WIS." which shall be located at the top of the border.

b. Proceeding clockwise, the border shall be surrounded by 4 oblong scenes of:

b-1. A railroad train.

b-2. A depiction of the first City Hall building.

b-3. A steamboat on Lake Michigan.

b-4. A tri-level historical house.

c. Surrounding the scenes shall be a large border in which the words "CITY OF MILWAUKEE" adorn the upper semi-circle of the seal, and the lower semi-circle shall contain the words "INCORPORATED JAN. 31 1846". The semi-circles shall be separated by a 5-point star on each side.

2. USE. The city clerk shall be responsible for the care and custody of the corporate seal as provided in s. 3-26-2-a. The city clerk may use the seal for official municipal purposes only.

3. PROHIBITIONS. The use, reproduction or depiction of the city's corporate seal for any reason other than municipal purposes, by anyone other than the city clerk, is prohibited.

4. PENALTY. Any person violating this section shall upon conviction forfeit not more than \$1,000.

*(HISTORY: Section 3-25 cr. File #911073, May 4, 1993; eff. July 20, 1993.)*

**3-26. City Clerk.** 1. The clerk of all such cities, however, incorporated, shall be elected by the common council of such city on the 3rd Tuesday of April, 1924, for a period of four years, and quadrennially thereafter.

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2. a. The clerk shall be elected by the common council for the term of 4 years. He shall keep the corporate seal and all papers and records of the city.

b. It shall be his duty to attend all meetings of the common council and to keep a full record of their proceedings. He shall draw and sign all orders on the treasury (except as otherwise provided in this act), in pursuance of an order or resolution of the common council, and shall keep a full and correct account thereof in books or files provided for that purpose. Copies of any and all books, papers, instruments or documents duly filed and kept in his office, and of the endorsements thereon, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be in evidence in all courts and places of the contents thereof and of such endorsements in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations, authorized to be taken by and under the laws of this state; and shall perform such other duties as may be required of him by the common council.

*(HISTORY: Section 3-26-1 cr., S. 2, Ch. 122, L. 1923.)*

*Section 3-26-2 am., Ch. Ord. 61, File #51261, Apr. 17, 1933.)*

**3-26.5. Special Deputy City Clerk.** The city clerk may designate as a special deputy city clerk a competent person within his office to act for and in his stead in specified matters. Such an appointment shall be in writing and copies filed in the city clerk's office setting forth the specific acts the special deputy is authorized to perform in the name of the city clerk. Such authority may be revoked and amended in the same manner. Within the scope of his specified authority, the special deputy may perform any and all acts required by law of the city clerk.

*(HISTORY: Section 3-26.5 cr., Ch. Ord. 512, F#80-847, Jan. 19, 1982.)*

**3-27. Checks. 1.** The common council of the city of Milwaukee may by resolution designate funds deposited by the city with any bank or banking association which shall be drawn out in one or more of the following methods, as stated in such resolution, to-wit:

a. By checks signed personally by the said treasurer or the deputy treasurer appointed pursuant to the provisions of s. 3-15 and countersigned personally by the comptroller of said city or the deputy comptroller of said city appointed pursuant to the provisions of said section; or,

b. By checks bearing the printed or stamped facsimile signature of said treasurer, adopted by him as a facsimile signature, and countersigned personally by said comptroller or deputy comptroller; or,

c. By checks signed personally by the said treasurer or deputy treasurer, and bearing the printed or stamped facsimile signature of said comptroller adopted by him as a facsimile countersignature; or,

d. By checks bearing the printed or stamped facsimile signature of said treasurer or of said deputy treasurer, adopted by him as a facsimile signature, and bearing the printed or stamped facsimile signature of said comptroller or of said deputy comptroller, adopted by him as a facsimile countersignature.

2. Before any facsimile signature shall be used as above provided, a specimen of same, duly certified by the officer of whose signature it is a facsimile, shall be filed in the office of the clerk of said city.

3. Any bank or banking association permitting the withdrawal of such funds by checks bearing or purporting to bear facsimile signatures as aforesaid, in accordance with the resolution of said common council, shall be fully warranted and protected in making payment upon any such check and said city waives any and all claims against said bank on account thereof, if the facsimile signature or signatures thereon resemble the facsimile signature adopted and filed by the said treasurer, or deputy treasurer, or the facsimile countersignature adopted and filed by said comptroller, or deputy comptroller, as the case may be, notwithstanding that said facsimile or purported facsimile signature or signatures may have been placed on such checks by some person without authority, or otherwise wrongfully using the mechanism of the treasurer or his deputy or the comptroller, or his deputy, or other mechanism, to print, stamp, or affix said facsimile or purported facsimile signature or signatures; unless said bank or banking association, in making such payment, shall not have acted in good faith or shall have failed to use the same diligence inspecting such checks before paying the same as is used by banks in



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said city in inspecting checks to pay bearing handwritten signatures. (S. 1, 2 and 3, Ch. Ord. 108, Jan. 2, 1940.)

**3-28. Expenditures When Legality is Questioned.** Any city official of any city, no matter how organized, who is holding money in his official capacity, or any city official who has authority to countersign may, if informed in writing by the city attorney when demand is made for the money or demand is made that he countersign a resolution or ordinance involving the expenditure of money, that doubt exists in regard to the legality of the resolution or ordinance passed involving the expenditure of money, immediately refuse to act further in such matter until such matter is determined by the courts, and no costs shall be taxed against the party himself, but in case any costs shall be taxed, or damages, in case any damages shall be provided, are awarded, they shall be paid by the city. (S. 925-260m Stats., 1913.)

**3-29. Commissions and Fees Prohibited. 1.** AFFIDAVIT REQUIRED. No officer or employe of the city of Milwaukee shall receive any premium, commission, fee or other thing of value on account of the sale or furnishing of any bond, undertaking, policy of insurance, or contract of indemnity, guaranty or suretyship to the city or to any of its officers, boards, or commissions or to any person, firm or corporation in connection with any contract to which the city or any of its officers, boards or commissions may be a party in interest. The attorney in fact or agent of any bonding or insurance company furnishing any bond, undertaking, policy of insurance or contract of indemnity, guaranty or suretyship shall sign and furnish an affidavit setting forth that no city official or city employe has any interest, directly or indirectly, or is receiving any premium, commission, fee or other thing of value on account of the sale or furnishing of the bond, undertaking, policy of insurance or contract of indemnity, guaranty or suretyship to the city. (Ch. Ord. 43, June 15, 1931.)

**2.** VIOLATIONS. Any violation of sub. 1 shall constitute malfeasance in office and any officer or employe of the city found guilty thereof shall thereby forfeit his office or position. Charges in writing against any officer, duly sworn to by any taxpayer or elector of the city, may be filed with the common council, and thereupon such proceedings shall be had as

are now provided for by charter in cases of impeachment of officers, and if such officer is found guilty by the common council of violation of sub. 1 his office shall be declared vacant by the common council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for the period of 12 months thereafter. Charges against any employe of the city may be made in like manner and filed with the board of civil service commissioners, and thereupon such proceedings shall be had as are now provided by law in the case of appeals from discharge. If such employe is found guilty by said board of violations of sub. 1 his position shall be declared vacant and he shall not be eligible to appointment or employment by the city of Milwaukee for the period of 12 months thereafter. (Ch. Ord. 31, Sept 24, 1928.)

**3-30. Prohibited Practices 1.** No officer or head of any department of the city government shall during regular working hours employ or use any city employe for any private purpose whatsoever.

**2.** No officer or head of any department or employe of the city government, unless specially authorized by the common council, shall use any city owned apparatus or equipment for any private purpose whatsoever.

**3.** No officer, agent, or employe of the city government shall be retained or employed by any common carrier or by any public utility corporation except such public utilities as are owned by the city or by any other municipal corporation, except in such cases where the disqualification of this section is specially waived by resolution of the common council.

**4.** No officer, member of any commission, agent or employe of the city shall in connection with the purchase or sale of any land by the city be retained or employed by any purchaser or owner thereof or act as agent or broker for such owner or purchaser or receive any fee or commission or any other thing of value from such owner or purchaser.

**5.** No officer, agent or employe of the city (except assessors while engaged at their official duty as required by law) shall appraise or assess for any city purpose any real or personal property in which such city officer, agent or employe has any direct or indirect pecuniary interest.

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6. No officer, agent or employe of the city shall sell stock or bonds of any company in which he is interested to any contractor or other person doing business with the city nor shall any such officer, agent or employe of the city sell or attempt to sell stock or bonds or solicit funds or subscriptions of any kind from any other person by offering or promising to obtain for the person so solicited some special privilege, favor or appointment in connection with the city affairs or government.

7. Any violation of this section shall constitute malfeasance in office and any officer, member of any commission or agent or employe of the city found guilty thereof shall thereby forfeit his office or position. Charges in writing against any officer, member of any commission or agent duly sworn to by a taxpayer, or elector of the city may be filed with the common council, and thereupon such proceedings shall be had as are now provided for by charter in cases of impeachment of officers, and if such officer, member of any commission, agent or employe is found guilty by the common council of violation of this section his office or position shall be declared vacant by the common council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for a period of 12 months thereafter. Charges against any employe of the city may be made in like manner and filed with the board of city service commissioners, and thereupon such proceedings shall be had as are now provided by law in the case of appeals from discharge. If such employe is found guilty by said board of violation of this section, his position shall be declared vacant and he shall not be eligible to appointment or employment by the city of Milwaukee for the period of 12 months thereafter. (*Ch. Ord. 44, June 15, 1931.*)

**3-31. Sales to Public Utilities Prohibited.** No officer of the city shall directly or indirectly sell any real or personal property or any interest therein or merchandise, commodities or any services of whatever nature or description, to any public utility transacting business or operating within the city of Milwaukee, nor shall any such officer sell to such public utility anything of value from which a commission or premium or any other consideration may be paid to him or anyone else on or in his behalf as

a result thereof from which he may derive directly or indirectly a personal profit, consideration or gain. Any violation of this section shall constitute malfeasance in office and any officer found guilty thereof shall thereby forfeit his office. Charges in writing against any officer duly sworn to by a taxpayer or elector of the city may be filed with the common council, and thereupon such proceedings shall be had as are now provided for by charter in cases of impeachment of officers, and if such officer is found guilty by the common council of violating this section, his office shall be declared vacant by the common council and he shall not be eligible to appointment or election to fill the vacancy so created or to hold any other position or office in the city government for a period of 12 months thereafter. The word "services" as used in this section shall not be construed so as to include the regular employment of any city officer by any public utility upon a salary or wage basis. (*HISTORY: Section 3-31 cr. Ch. Ord. 129, File #46-1671, Nov. 25, 1946.*)

**3-32. Employment of Architects.** No officer, department, board or commission under the control of the common council of the city of Milwaukee shall employ any architect other than the one in the city service without first securing the approval of the common council to such action. (*HISTORY: Section 3-32 cr. Ch. Ord. 50, File #48453, Jan. 11, 1932.*)

**3-34. Municipal Court. 1. COURT CREATED.** Pursuant to the authority granted by s. 755.01 and ch. 755, Wis. Stats., there is established the municipal court for the city of Milwaukee. The municipal court shall constitute a separate department within city of Milwaukee government.

**2. MUNICIPAL JUDGE.** Pursuant to the authority of s. 755.01, Wis. Stats., there are created 3 offices of municipal judge of the city of Milwaukee, which shall be designated branch one, branch 2 and branch 3. One of the judges shall be designated as presiding judge within the municipal court for administrative purposes by the chief judge of the first judicial administrative district of the state of Wisconsin.

a. Term. Each municipal judge shall be elected to a 4-year term. Temporary appointments to fill vacancies in the office of municipal judge shall be made as provided in s. 800.06, Wis. Stats. A permanent vacancy in

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the office of municipal judge shall be filled pursuant to s. 8.50, Wis. Stats.

b. Eligibility. A municipal court judge shall be an attorney licensed to practice law in Wisconsin.

c. Salary. The rates of pay of municipal judge shall be determined by the common council.

d. Engaging in Outside Business or Profession. Except as provided in SCR ch. 60, Wisconsin supreme court rules, as amended, no municipal judge elected pursuant to this section may engage in outside employment, including the private practice of law, for compensation or pecuniary reward during his or her term. Any person who intentionally violates this subsection shall be fined no less than \$100 nor more than \$1,000; provided, however, that the penalty under this subsection does not limit the power of the common council to remove a municipal judge for cause, or by recall, or by any other means pursuant to state law.

3. JURISDICTION. a. City Ordinances. Each municipal judge shall have the jurisdiction provided by state law, including but not limited to because of enumeration, that provided by chs. 755 and 800, Wis. Stats., and exclusive jurisdiction of violations of city of Milwaukee ordinances.

b. Contempt of Court and Penalty. Each judge may punish for contempt as provided in s. 800.12, Wis. Stats., and may impose a forfeiture therefor not to exceed \$50 or, in default thereof, a jail sentence not to exceed 7 days.

c. Sessions of Court. Sessions of the court shall be as directed by the mayor and the common council either in the form of ordinances or resolutions, and scheduling shall be arranged by the chief court administrator.

4. OFFICERS AND STAFF. a. Chief Court Administrator. The chief court administrator shall be appointed by the presiding municipal court judge and confirmed by the common council. Each term shall be for a period of 3 years, commencing on the first day of October, 1989, and every 3rd year thereafter. In the case of a vacancy during any term, the appointee shall hold office for the unexpired term of his or her predecessor. In all cases, the chief court administrator shall hold office for the specified term to which he or she was appointed, confirmed qualified and thereafter until a successor is appointed,

confirmed qualified. The chief court administrator shall receive a salary to be determined by the common council. Before entering upon the duties of the office, each chief court administrator shall take and subscribe the oath of office prescribed by the constitution of the state and contained in s. 19.01, Wis. Stats., and file the same duly certified by the official administering the same with the city clerk.

b. Municipal Court Staff. In addition to the 3 municipal court judges, the municipal court commissioners and the chief court administrator, the municipal court staff shall include such municipal court clerks as are authorized by the common council, to be appointed by the chief court administrator from civil service lists submitted for that purpose, said clerks to remain in the classified city civil service. The staff shall further include police officers designated by the chief of police who shall serve as bailiffs, and such additional administrative and clerical staff, selected through the usual procedures of the city civil service, as are authorized by the common council.

5. PROCEDURE. a. State Law. The procedures to be operative in the municipal court shall be as prescribed by state law including, but not limited to because of enumeration, chs. 66, 755 and 800, Wis. Stats.

b. Administrative Regulations. The municipal court and the municipal judges shall be subject to such rules of procedures as may be promulgated from time to time by the chief judge of the first judicial administrative district of the state of Wisconsin.

c. Treasurer to Receive Collections. All monies belonging to the city which are received by a municipal judge, shall be paid to the city treasurer on a daily basis.

d. Temporary Absence of Judge. Whenever a municipal judge shall be temporarily absent, his or her office shall be filled for the period of the absence by one or more municipal judges from other municipalities within the state of Wisconsin, as provided for by s. 800.06(1)(a), Wis. Stats., in accordance with the terms of agreements, which the chief court administrator shall execute with the substitute judges. Agreements fixing the compensation to be paid to such substitute judges and the manner of payment shall be established by the common council.

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*(HISTORY: Section 3-34 rc. Ch. Ord. 509, F#76-375-n, July 24, 1981.*

*3-34-4-a am. Ch. Ord. 563, F#86-507, Oct. 14, 1986; eff. Dec. 29, 1986.*

*3-34-2-b m. File #960180, June 4, 1996; eff. Aug. 20, 1996.*

*3-34-2-b cr. File #960180, June 4, 1996; eff. Aug. 20, 1996.*

*3-34-2-c m. File #960180, June 4, 1996; eff. Aug. 20, 1996.*

*3-34-2-a am. File #971626, Feb. 10, 1998; eff. April 28, 1998.*

*3-34-2-d am. File #971626, Feb. 10, 1998; eff. April 28, 1998.*

*3-34-4 am. File #971626, Feb. 10, 1998; eff. April 28, 1998.*

*3-34-5-d am. File #971626, Feb. 10, 1998; eff. April 28, 1998.*